

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

IRON PARTNERS, LLC,

Plaintiff,

v.

DAMES & MOORE, a California limited
partnership, URS CORPORATION, a
Nevada corporation, and URS HOLDINGS,
INC, a Delaware corporation,

Defendants.

DAMES & MOORE, a California limited
partnership, URS CORPORATION, a
Nevada corporation, and URS HOLDINGS,
INC, a Delaware corporation,

Third Party Plaintiffs,

v.

OREGON IRON WORKS, INC., an Oregon
corporation,

Third party Defendant

Case No. C07-5643RBL

ORDER DENYING DEFENDANT'S
MOTION FOR ATTORNEYS' FEES

THIS MATTER is before the Court on Defendants Dames & Moore, URS Corporation, and URS

1 Holdings' [Together "D&M"] Motion for attorneys' fees [Dkt.#56] following the Court's dismissal of
2 Plaintiff's claims on Summary Judgment. [Dkt.#54].

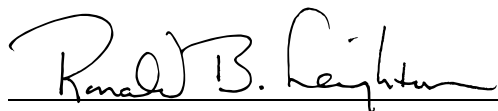
3 D&M argues that Plaintiff's claims were frivolous under RCW §4.84.185. Specifically, it argues that
4 the plaintiff never had any evidence of an actual misrepresentation, and that its claim was frivolous, even if
5 not advanced for purposes of harassment, delay or spite. Plaintiff argues that the proper vehicle for
6 addressing such a claim in Federal Court is Fed. R. Civ. P. 11, and that D&M has not followed that procedure.

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8 The Court agrees that Rule 11 and RCW 4.84.185 address different conduct, and that a frivolous claim
9 under Washington law can be addressed and remedied in Federal Court. The court also agrees that Plaintiff's
10 claims were ultimately unsustainable, as outlined in the Order Granting Summary Judgment. But the Court
11 does not believe that a case which is relatively easily resolved on Summary Judgment is necessarily one that
12 was frivolous at the outset. The issue presented is a close one. Plaintiff sued D&M for failing to discover
13 and report environmental contamination that D&M warned Plaintiff might be there, and which Plaintiff
14 elected not to investigate.

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16 Nevertheless, the Court does not conclude that Plaintiff's claims against D&M were frivolous, and
17 for that reason the Motion for Attorneys' Fees is DENIED.

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19 IT IS SO ORDERED.

20 Dated this 30th day of July, 2009.

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24 RONALD B. LEIGHTON
25 UNITED STATES DISTRICT JUDGE
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